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Message Text

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ACTION STR-04

INFO OCT-01 EUR-12 IO-11 ISO-00 STRE-00 AGR-05 CEA-01

CIAE-00 COME-00 DODE-00 EB-07 FRB-03 H-02 INR-07

INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01 AID-05

CIEP-01 SS-15 ITC-01 TRSE-00 USIA-06 PRS-01 SP-02

FEAE-00 OMB-01 AF-06 ARA-06 EA-07 NEA-10 /132 W
---------- 044639
P 271840Z FEB 76
FM USDEL MTN GENEVA
TO SECSTATE WASHDC PRIORITY 1199
INFO USMISSION EC BRUSSELS PRIORITY

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ACTION STR PRIORITY

H PASS CODEL

E.O. 11652: N/A
TAGS: ETRD, MTN
SUBJECT: EC SAFEGUARDS PAPER

REF: MTN GENEVA 1471

1. FOLLOWING IS ROUGH SUMMARY OF NEW EC COMMISSION SAFEGUARDS DISCUSSION PAPER REPORTED REFTEL.

2. INTRODUCTION. NOTES CERTAIN "HESITATION"IN EC 1973 AND 1975 MANDATES TOWARDS THE NOTION OF MODIFIED SAFEGUARDS PROCEDURES AND SUGGESTS THAT A PERIOD OF "SUPPLEMENTARY REFLECTION" IS NOW WARRANTED.

3. GENERAL CONSIDERATIONS.
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A. SUGGESTS COMMUNITY CONSIDER HOW SAFEGUARD

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CHANGES CAN SERVE ITS DUAL INTEREST AS EXPORTER (MORE DISCIPLINE ON OTHERS) AND AS IMPORTER (MORE EFFICACIOUS, SUPPLE AND PRACTICAL DEFENSE). DOES NOT FORECAST WHAT OUTCOME OF SUCH CONSIDERATIONS SHOULD BE.

B. NOTES THAT OTHER COUNTRIES (ESPECIALLY JAPAN AND SOME LDCS) WILL PRESS EC INCREASINGLY FOR ELIMINATION OF QUANTITATIVE RESTRICTIONS. IN ORDER TO MEET THIS PRESSURE, COMMUNITY WILL NEED TO DEFINE MORE CLEARLY RELATIOSHIP OF QRS TO SAFEGUARDS; IN MEANTIME NOT MUCH CAN BE DONE IN EITHER FIELD. COMMUNITY NEEDS AN "INTERNAL PLAN" ON QR LIBERALIZATION IN ORDER TO CLARIFY AN APPROACH ("EXTERNAL PLAN") ON SAFEGUARDS.

C. EC SAFEGUARDS POSITION MUST TAKE EXPLICIT ACCOUNT OF (1) EXISTING RESTRICTION APPLIED AGAINST EASTERN EUROPEAN COUNTRIES, (2) RESTRICTIONS APPLIED AGAINST JAPAN UNDER SOME NATIONAL SYSTEMS WITHIN THEEC, (3) SPECIAL AND MORE STRICT SAFEGUARD PROVISIONS IN EC PREFERENTIAL ARRANGEMENTS INCLUDING THOSE WITH EFTA COUNTRIES, MEDITERRANEAN COUNTRIES, AND ACP COUNTRIES. ALL OF THESE EXISTING MEASURES EMBODY A SELECTIVE APPROACH AND THUS IT WOULD BE "LOGICAL AND PRACTICAL" IN EXAMINING EXISTING SAFE-GUARD RULES TO MAKE PROVISION FOR SELECTIVITY INTO WHICH THESE ARRANGEMENTS CAN BE FITTED, PART-ICULARLY THOSE IN THE THIRD CATEGORY.

4. "ORIENTATIONS TO KEEP IN MIND."

A. OBSERVES THAT ARTICLE XIX IS CURRENTLY ADEQUATE TO PERMIT NECESSARY ACTION ON PARTICULAR PRODUCTS OR FOR INDUSTRIES ON THE VERGE OF COLLAPSE ("VOIRE D'EFFONDREMENT").

B. DIFFICULTY OF XIX IS IN DEALING WITH PROBLEM OF PARTICULAR COUNTRY OR COUNTRIES AS SOURCE OF DISRUPTIVE IMPORTS. HERE THE QUESTION OF DISCRIMINATION SHOULD BE CONSIDERED AS MATTER OF EQUITY FOR EXPORTER, I.E., IT IS NOT FIAR TO DISCRIMINATE AGAINST INNOCENT, NON-DISRUPTIVE EXPORTERS WITH ACROSS-THE-BOARD SAFEGUARD MEASURES. THEREFORE SELECTIVE APPLICATION

NECESSARY AND MOREOVER THERE SHOULD BE NO COMPENSATION FOR, OR RETALIATION BY, THE EXPORTER SINGLED OUT FOR THIS TREATMENT. (COMMENT: OUR SOURCE ATTRIBUTED THIS "PIECE OF SOPHISTRY" ON DISCRIMINATION TO MEYNELL.) IN LIGHT OF THESE CONSIDERATIONS, COMMUNITY WILLL HAVE TO INDICATE NATURE OF NEW PRINCIPLES AND SUPPLEMENTARY RULES IT IS SEEKING AND MUST MAKE CLEAR THAT THEE IMPLY NO RELAXATION

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OF DISCIPLINE ON SAFEGUARD MEASURES. ON CONTRARY THEY WOULD INVOLVE CLARIFICATION OF CRITERIA, LEADING TO A MORE OBJECTIVE BASIS FOR SAFEGUARD ACTION. ELABORATION OF A SAFEGUARD CLAUSE, "COMPLETED IN THE SEINSE OF SELECTIVITY," WOULD NEED TO INCLUDE PROVISIONS ON (1) PRICING OF DISRUPTIVE IMPORTS, (2) QUANTITIES OF DISRUPTIVE IMPORTS, AND (3) THE "CUMULATIVE CONCEPT" -- ADDITIVE DISRUPTIVE IMPACT OF IMPORTS FROM SEVERAL (BUT NOT NECESSARILY ALL) SOURCES. (COMMENT: THIS SECTION PRESUMABLY REFLECTS MEYNELL EFFORT TO TRANSFER SEVERAL MFA FEATURES INTO GENERAL SAFEGUARDS APPROACH.)

C. DEVELOPING COUNTRIES. THERE SHOULD BE NO GENERAL EXEMPTION FOR SAFEGUARDS AGAINST LDC EXPORTS, BUT DIFFERENTIAL TREATMENT MAY BE POSSIBLE IN AREA OF BASE LEVELS FOR RESTRICTIONS, PERMITTED GROWTH RATES AND SOME ASSURED SHARE OF ANY QUANTITAIIVE LIMITATIONS IMPOSED. AS TO NECESSITY OF ADJUSTMENT ASSISTANCE LINKED TO SAFEGUARD MEASURES, PAPER RAISES BUT DOES NOT SUGGEST ANSWER. (COMMENT: WE KNOW OF NO MEMBER STATE WILLING TO ACCEPT MANDATORY LINK OF ADJUSTMENT ASSISTANCE TO SAFEGUARD MEASURES.)

D. PROCEDURES. THERE WILL NEED TO BE "RIGOROUS PRIOR CONSULTATIONS" WITH EXPORTING COUNTRIES (WHICH COMMISSION BELIEVES FEASIBLE WITH A GOOD MONITORING SYSTEM). NEED POSSIBILITY FOR "FRIENDLY SOLUTIONS" LEADING TO AUTO-LIMITATIONS (VRAS). (COMMENT: OUR SOURCE STARTLED TO SEE VRA FEATURE PRESENTED AS "PROCEDURAL.") WILL NEED TO HAVE DETAILED REPORTING FROM COUNTRIES, AT INITIATIVE OF GATT IF NECESSARY, AND, COMPLEMENTING THIS, PROVISIONS FOR RECOMMENDATIONS BY GATT TO PARTIES TO A SAFEGUARD

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5. CONCLUSIONS. ON SAFEGUARDS

A. PROGRESS IS DESIRABLE, IF ONLY AS AN ELEMENT OF REASSURANCE PERMITTING AN EFFORT ON QRS.

B. ARTICLE XIX NEEDS TO BE REINFORCED TO PROVIDE FOR "EMERGENCY ACTION ON IMPORTS FROM PARTICULAR COUNTRIES" AS IT NOW DOES FOR "EMERGENCY ACTION ON IMPORTS OF PARTICULAR PRODUCTS" (LATTER BEING DESCRIPTIVE TITLE OF ART XIX IN GATT INSTRUMENT). COMPLETION OF ART IN THIS SENSE WOULD INVOLVE SUPPLEMENTARY CRITERIA AND SURVEILLANCE FOR USE IN DISCIPLINING SELECTIVITY WHICH WOULD BE PERMITTED.

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C. SAFEGUARD EXERCISE SHOULD NOT BE ALLOWED TO DISTRUB SPECIFIC SAFEGUARD CLAUSES IN EAST EUROPEAN ACCESSION PROTOCOLS AND EC PREFERENTIAL AGREEMENTS.

D. COMMUNITY SHOULD ABSTAIN FROM TAKING AN INITIATIVE ON SAFEGUARDS, ESPECIALLY IN VIEW OF RETICENCE OF JAPAN "AND DEVELOPING COUNTRIES" (SIC: LDCS HAVE NOT BEEN PARTICULARLY RETICIENT). EC SHOULD, HOWEVER, BE ATTENTIVE TO PROPOSALS FROM OTHERS.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: NONTARIFF BARRIERS, PAPERS, FOREIGN POLICY POSITION, TRADE CONTROLS
Control Number: n/a
Copy: SINGLE
Draft Date: 27 FEB 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: morefirh
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976MTNGE01472
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760074-1118
From: MTN GENEVA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t1976025/aaaaadvc.tel
Line Count: 179
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION STR
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 MTN GENEVA 1471
Review Action: RELEASED, APPROVED
Review Authority: morefirh
Review Comment: n/a
Review Content Flags:
Review Date: 31 MAR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <31 MAR 2004 by ElyME>; APPROVED <07 JUL 2004 by morefirh>
Review Markings:

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04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: EC SAFEGUARDS PAPER
TAGS: ETRD, MTN, EEC
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006